
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-02-DT-151
Station WOBC-FM)	
)	NAL/Acct. No. 200232360005
Oberlin College Student Network, Inc.)	
Oberlin, Ohio)	FRN: 0005-0115-72

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: May 23, 2002

By the District Director, Detroit Office, Enforcement Bureau:

I. Introduction

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Oberlin College Student Network, Inc. ("Oberlin"), the licensee of WOBC-FM, has apparently violated Section 11.35(a) of the Commission's Rules ("Rules")¹ by failing to have Emergency Alert System (EAS) equipment installed and operating. We conclude that Oberlin is apparently liable for a forfeiture in the amount of eight thousand dollars (\$8,000).

II. Background

2. On March 12, 2002, an FCC agent from the Detroit Office conducted an Emergency Alert System inspection of WOBC-FM. At the time of inspection, the EAS equipment was not installed and there were no entries in the station log indicating that the EAS equipment had been operational or had been taken out of service for repair. The agent was also told that the station had not conducted any EAS transmission or receiving tests from at least January 1, 2001.

3. On March 22, 2002 the Detroit Office issued a Notice of Violation ("NOV") to Oberlin regarding WOBC-FM. On April 15, 2002, the Detroit Office received a written response that included "...We are in consultation with our professional engineer to update our current EAS equipment..." They also wrote "...Due to current budgetary constraints, it may not be possible to purchase the equipment until early June..."

III. Discussion

4. Section 11.35(a) of the Rules requires all broadcast stations to ensure that EAS equipment is installed so that the monitoring and transmitting functions are available during the times the station is in operation. At the time of inspection, Oberlin failed to have Emergency Alert System (EAS) equipment installed and operating.

¹ 47 C.F.R. § 11.35(a).

5. Based on the evidence before us, we find that Oberlin willfully² and repeatedly³ violated Section 11.35(a) by failing to install and maintain operational EAS equipment. *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303(1999) ("*Forfeiture Policy Statement*")⁴, sets the base forfeiture amount at \$8,000 for failure to install and have operational EAS equipment. In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended, (the "Act"),⁵ which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. The record reveals that Oberlin has previously had an overall history of compliance and showed good faith surrounding the violations by the voluntary disclosure of information; however, the violation is egregious. Applying the Policy Statement and the statutory factors to the instant case and applying the inflation adjustments, we believe that an eight thousand dollar (\$8,000) monetary forfeiture is warranted.

IV. Ordering Clauses

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act⁶ and Sections 0.111, 0.311 and 1.80 of the Rules⁷, Oberlin College Student Network, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of eight thousand dollars (\$8,000) for willfully and repeatedly violating Section 11.35(a) of the Rules by failing to install and have operational EAS equipment.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Oberlin SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200232360005, FRN: 0005-0115-72.

9. The response, if any, must be mailed to Federal Communications Commission,

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ Section 312(f)(2), which also applies to Section 503(b), provides: [t]he term "repeated", when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

⁴ 47 C.F.R. § 1.80.

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, and 0.311.

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Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S.W., Washington, D.C. 20554 and MUST INCLUDE THE NAL/Acct. No. 200232360005, FRN: 0005-0115-72.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

12. IT IS FURTHER ORDERED THAT this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Oberlin College Student Network, Inc., Wilder Hall – Room 319, 135 West Lorain Street, Oberlin, Ohio 44074.

FEDERAL COMMUNICATIONS COMMISSION

James A. Bridgewater
District Director
Detroit Office

⁸ See 47 C.F.R. § 1.1914.